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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,592	04/03/2001	Brett M. Webb	10003933-1	3733

7590

04/06/2006

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,592

Applicant(s)

WEBB ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Slinger (US 2002/0111846).
3. With respect to Claim 20: Slinger discloses a web site comprising:
 - a. A database (Paragraphs 0055-0061);
 - b. A graphical user interface (Paragraph 0043) with;
 - i. A maintenance registry (See Figures 3-5)
 - ii. A calendar (see Figure 2, The system puts the maintenance items in a schedules by months, therefore the examiner considers this to be a form of a calendar).
 - iii. A reminder system (See Paragraphs 0042 and 0054);
 - iv. A controller for operating the graphical user interface, database and the reminder system (Paragraphs 0111-0113).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slinger (US2002/0111846).

7. With respect to Claims 1, 8 and 17: Slinger discloses the use of a method of home maintenance comprising the steps:

c. Tracking a household inventory of items with related maintenance tasks (see abstract); and

d. Notifying the user with a reminder from a home maintenance website (Paragraphs 0043), with a reminder of the maintenance task (See Paragraphs 0042 and 0043) prior to a maintenance deadline (see paragraphs 0047, 0075, and 0106-0108).

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8. Slinger does not expressly show the notice including a network link to the home maintenance web site, a manufacturer web site or a retailer website.

9. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The steps of tracking a household inventory and notifying the user would be performed regardless of what type of information is given in the notice. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the notice contain a network link to the home maintenance website, manufacturer's website or a retailers website, because such information does not functionally relate to the steps in the method claimed and does not patentably distinguish the claimed invention.

11. With respect to Claim 2: See Figures 3-5 and paragraph 0043).

12. With respect to Claim 3: See Figures 3-5.

13. With respect to Claim 4: See "Timing" Figure 4.

14. With respect to Claim 5: Slinger tracks the inventory by "inside" (Figure 3) and "outside" (Figure 4) which the examiner considers to be by location, and further tracks them by Maintenance tasks, which the examiner considers to be "type", then displays the lists (See Figures 3 and 4).

15. With respect to Claim 6: See Figures 12, 17 and 18, with corresponding detailed descriptions.

16. With respect to Claim 7: Slinger discloses the use of identifying maintenance information for performing the maintenance task (see Figures 27-29 and Paragraph 0108), however Slinger does not expressly show the maintenance task including identification of tools, parts and instructions for performing the maintenance task, a duration of the maintenance task and a source of the item.

17. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The identifying of maintenance information would be performed regardless of the type of information is present in the notification. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the maintenance task including identification of tools, parts and instructions for performing the maintenance task, a duration of the maintenance task and a source of the item, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the information does not patentably distinguish the claimed invention.

19. With respect to Claim 9: See abstract.

20. With respect to Claim 10: Slinger does not disclose expressly that the notification is delivered by use of a pop-up window. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the reminder be delivered to the user via a pop-up window because Applicant has not disclosed that the use of a

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pop-up window is used for a particular purpose, or solves any stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the notification being sent by e-mail, as disclosed by Slinger, or by use of a pop-up window because both of them result in the user being notified. Therefore, it would have been an obvious matter of design choice to modify Slinger to obtain the invention as specified in claim 10.

21. With respect to Claim 11: Slinger discloses the use of a home maintenance system comprising:

- e. A user interface (Paragraph 0052-0056);
- f. A home maintenance website (See Claim 4);
- g. A notification with a reminder (Paragraph 0042); and
- h. A communication link between the home maintenance website and a user (Paragraphs 0043-0047).

22. With respect to Claim 12: Paragraph 0042.

23. With respect to Claim 13: Paragraph 0108.

24. With respect to Claim 14: Slinger discloses a home maintenance reminder notification system comprising:

- i. A home maintenance service provider (Slinger discloses that the tasks are performed by a computer, which the examiner considers to be the provider, see abstract);
- j. A display window on a user interface (See paragraph 0043 and Figures 3-5); and

- k. A message in the display window (see paragraph 0043). With respect to the limitation on what the message includes a network link to a home maintenance website and instructions for performing the maintenance task: this is a limitation of the function of the system or what the system does. These carry no patentable weight in a system claim. System claims should cover what a system is or structural elements, not what the system does. See *Hewlett-Packard Co. vs. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). The system of Slinger sends messages in windows on a website, and is fully capable of sending a network link to a home maintenance website and instructions for performing the maintenance task, in the message.
25. With respect to Claim 15: See Paragraph 0042.
26. With respect to Claim 16: Slinger discloses the use of sending text messages (See paragraphs 0042 and 0054), however the limitation on what the message includes, such as tools and parts needed, detailed information on how to perform the maintenance task and a network link comprising at least one uniform resource locator link is a limitation of the function of the system or what the system does. These carry no patentable weight in a system claim. System claims should cover what a system is or structural elements, not what the system does. See *Hewlett-Packard Co. vs. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). The system of Slinger sends a text message, and is fully capable of sending text message including tools and parts needed, detailed information on how to perform the maintenance task and a network link comprising at least one uniform resource locator link is a limitation of the function of the system or what the system does.

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27. With respect to Claim 18: Slinger discloses the use of a method, executed on a computer readable medium (Paragraphs 0111-0113) of home maintenance comprising the steps:

- l. Tracking a household inventory of items with related maintenance tasks (see abstract); and
- m. Notifying the user with a reminder from a home maintenance website (Paragraphs 0043), with a reminder of the maintenance task (See Paragraphs 0042 and 0043).

28. Slinger does not expressly show the notice including a network link to the home maintenance web site, a manufacturer web site or a retailer website.

29. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The steps of tracking a household inventory and notifying the user would be performed regardless of what type of information is given in the notice. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

30. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the notice contain a network link to the home maintenance website, manufacturer's website or a retailers website, because such information does not functionally relate to the steps in the method claimed and does not patentably distinguish the claimed invention.

31. With respect to Claim 19: Slinger discloses the use of a method of providing home maintenance information comprising the steps of:

- n. Receiving at a website a maintenance information request on a household item (Paragraph 0043);
32. Delivering to the user maintenance information (Figures 3-5). Slinger does not expressly show that the maintenance information is specific to the brand of the item and obtained from at least one manufacturer.
33. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The step of delivering maintenance information is going to be performed the same regardless of what the information is. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the maintenance information be specific to the brand of the item and obtained from at least one manufacturer.

Response to Amendment

35. The declaration filed on 1/9/06 under 37 CFR 1.131 has been considered but is ineffective to overcome the Singer reference.
36. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Slinger reference to either a constructive reduction to practice or an actual reduction to practice. For an affidavit to be found effective, the declaration must show conception of the idea prior to the priority date of the reference, as well as due diligence for each

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date between conception and reduction to practice, in this instance, filing of the application.

Where as the declaration may have shown conception, the declaration fails to show diligence for the time between conception of the idea and the filing of the application. There are large gaps, which are unaccounted for in the declaration. The declaration shows conception of the idea in May of 2000, but shows nothing of what happened between May 2000 and September 2000, when the inquiry was sent to the lawyer. The declaration states that there was a back log of cases and it was worked on in turn. However, the receipt of fees, shows January 19th as the last day the application was worked on. The declaration has failed to show diligence between January 19th and April 3rd, 2001, which is the time of filing. Due to the large gaps in the timeline the examiner does not consider the affidavit sufficient to overcome the rejection of record.

37. The applicant has argued all rejections based on the affidavit being effective. As described above, the examiner considers the affidavit to be ineffective, therefore rejections stand as stated above.

Conclusion

38. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

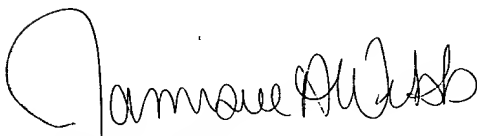
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

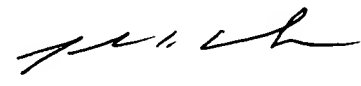
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamisue Webb



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